

F 681

G 23

1880



Permalife•
pH 8.5

E 681
.G23
Copy 1

OBEDIENCE TO THE LAW THE FOREMOST
DUTY OF CONGRESS.

SPEECH

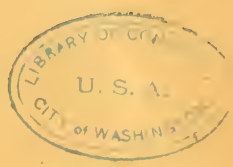
OF

HON. JAMES A. GARFIELD,
OF OHIO,

IN THE

HOUSE OF REPRESENTATIVES,

March 17 1880.



WASHINGTON.
1880.

1884
1003

SPEECH
OF
HON. JAMES A. GARFIELD.

The House being in Committee of the Whole, and having under consideration the bill (H. R. No. 4924) making appropriation to supply certain deficiencies in the appropriations for the service of the Government for the fiscal year ending June 30, 1880, and for other purposes—

Mr. GARFIELD said :

Mr. CHAIRMAN: The discussion of this bill has concentrated upon two topics, the public printing and the election laws.

THE PUBLIC PRINTING.

On the subject of the public printing I shall take no time, except to say this: After one of the saddest histories in the experience of this Government with the old contract system, which broke down by the weight of its own corruption, it was developed and proved beyond any controversy that in the four years preceding the administration of Abraham Lincoln, out of the private profits on the public printing and binding, the sum of \$100,000 was contributed by the Public Printer for political purposes, mainly to carry the democratic elections in Pennsylvania; and that vast contribution did not exhaust the profits of the Public Printer out of the Government. This exposure destroyed the wretched contract system; and thereafter the Government itself assumed the responsibility of the work. At first the Senate or the House of Representatives elected a Printer, as they had a manifest right to do under the clause of the Constitution which gives each House the power to elect its own officers. But when, by and by, the office grew into a great national establishment, in which all the printing and binding for all departments of the Government was

done, it became manifest that the Senate was exercising a power of appointment unwarranted by the Constitution; and in the year 1874, on the motion of Mr. Hale, of New York, a resolution was adopted by a two-thirds vote suspending the rules of the House and making in order, on a sundry civil service appropriation bill, an amendment to change the law and make the Printer an officer of the United States, to be appointed by the President and confirmed by the Senate. I had charge of that bill and voted for the amendment, as did nearly all my associates; and it was adopted by the almost unanimous vote of this House, both parties uniting in declaring that the old law was unconstitutional, and that experience had proved it unwise; republicans taking their share of responsibility for their own blunders and mistakes; all agreeing that the law ought to conform to the Constitution.

When the democratic party came into power in 1876, they amended that law by making it take effect immediately. We had made it take effect when a vacancy should occur in the office of Public Printer. In 1876 the law was so changed as to make it take effect immediately. And that passed by the general consent of both parties. The proposition now is to go back, and, in the face of our past experience, make a change in this law which will not affect in any way the question of economy, which will not change one iota of the machinery of the management of the public printing, and does not pretend to be in the direction of economy; but merely abolishes a constitutional office and creates an unconstitutional one; takes the appointing power out of the hands of the President and unlawfully places it in the hands of this House, merely to get some democrat into office. This is to be done for no public good, but to satisfy the demands of party hunger. I have no doubt that this amendment will be, as it certainly ought to be, ruled out of order, and I will waste no further words in discussing it.

THE ELECTION LAWS.

I will now call attention, during the short time left me, to what I consider a matter of far graver moment. My colleague, [Mr. McMAHON,] in his speech opening the discussion upon this bill, made the announcement in substance, and it remains uncontradicted and not protested against by any one on his side of the House, first, that "we have not

hitherto made, do not in this bill, and will not in any future bill, make any appropriation whatever for supervisors or special deputy marshals, so far as they have to do with congressional elections." He asserts that it was not proper for any officer of the Government to appoint special deputy marshals when no appropriation had been made for that specific purpose.

Then further on he declares—I quote from his printed speech :

And I desire to say that because the Supreme Court of the United States has decided that the election law is constitutional by a sort of eight-by-seven decision—and I mean by that a division apparently according to party lines, (without impugning the good faith of any member of the Supreme Court, but to show how differently a legal question may appear to persons who have been educated in different political schools)—that although that court has decided the constitutionality of the law, that when we come, as legislators, to appropriate money it is our duty to say, is this law constitutional? or, if constitutional, is it a good law, and are we bound to appropriate money for it?

He undertakes, as will be seen, to throw contempt on that decision by styling it "a sort of eight-by-seven decision." I remind him that it is a seven-to-two decision, having been adopted by a larger number of the members of the court than the majority of the decisions of that tribunal. It is a decision of a broad, sweeping character, and declares that Congress may take the whole control of congressional elections, or a partial control, as they choose; that the election law as it stands on the national statute-book is the supreme law of the land on that subject.

LAWS OF THE UNITED STATES ARE THE LAWS OF EVERY STATE.

More than that: the Supreme Court, not only in this case but in another recent case, has made a declaration which ought to be engraven upon the minds and hearts of all the people of this country. And this is its substance :

That a law of Congress interpenetrates and becomes a part of every law of every State of this Union to which its subject-matter is applicable, and is binding upon all people and covers every foot of our soil.

This is the voice of the Constitution. Now, therefore, under this decision the election laws of the United States are the laws of every State of this Union. No judge of election, no State officer or other person connected with any congressional election, no elector who offers his ballot at any such election can, with impunity, lift his hand

or do any act against any of the provisions of these laws. They rest down upon congressional elections in every State like the "casing air," broad and general, protecting with their dignity every act and penetrating with their authority every function of congressional elections. They are the supreme law of the land on that subject.

CONGRESS THREATENS TO DISOBEY THE LAW.

But now a Representative, speaking for the democratic party in this House, rises, not with the plea which he could have made with some show of plausibility last year, that the law is unconstitutional and that therefore they would not enforce it—but, with a constitutional law, declared so by the Supreme Court, covering him and filling the Republic from end to end, reaching everywhere and covering every foot of our soil where a congressional election can be held—he rises in his place and declares that the democratic party will not execute that law nor permit it to be obeyed.

We who are the sworn law-makers of the nation, and ought to be examples of respect for and obedience to the law—we, who before we took our first step in legislation, swore before God and our country that we would support the supreme law of the land—we are now invited to become conspicuous leaders in the violation of the law. My colleague announces his purpose to break the law and invites Congress to follow him in his assault upon it.

Mr. Chairman, by far the most formidable danger that threatens the Republic to-day is the spirit of law-breaking which shows itself in many turbulent and alarming manifestations. The people of the Pacific Coast, after two years of wrestling with communism in the city of San Francisco, have finally grappled with this lawless spirit, and the leader of it was yesterday sentenced to penal servitude as a violator of the law. But what can we say to Dennis Kearney and his associates, if to-day we announce ourselves the foremost law-breakers of the country and set an example to all the turbulent and vicious elements of disorder to follow us?

MANDATORY CHARACTER OF THE ELECTION LAW.

My colleague [Mr. McMAHON] tries to shield his violation of the law behind a section of the statutes which provides that no disbursing or other officer shall make any contract involving the expendi

ture of money beyond what is appropriated for the purpose. I answer that I hold in my hand a later law, a later statute, which governs the restrictive law of which he speaks, which governs him and governs the courts. It is the election law itself.

I invite attention briefly to its substance. Sections 2011 and 2012 of the Revised Statutes provide that upon the application of any two citizens of any city of more than twenty thousand inhabitants to have a national election guarded and scrutinized, the judge of the circuit court of the United States shall hold his court open during the ten days preceding the election. The law commands the judge of the court to so do.

In the open court from day to day, and from time to time, the judge shall appoint, and, under the seal of the court, shall commission two citizens of different political parties who are voters within the precinct where they reside, to be supervisors of the election. That law is mandatory upon the judge. Should he refuse to obey, he can be impeached of high crimes and misdemeanors in office. He must not stop to inquire whether an appropriation has been made to pay these supervisors. The rights of citizens are involved, and upon their application the judge must act.

Again section 2021 provides that on the application of two citizens the marshal of the United States shall appoint special deputy marshals to protect the supervisors in the execution of their duty. And the law is mandatory upon the marshal. He must obey it, under the pains and penalties of the law. What then? When the supervisors and special deputy marshals have been appointed they find their duties plainly prescribed in the law. And then section 5521 provides that if they neglect or refuse to perform fully all these duties enjoined upon them, they are liable to fine and imprisonment. They cannot excuse their neglect by saying, "We will not act because Congress has not appropriated the money to pay us." All these officers are confronted by the imperial command of the law—first to the judge and marshal to appoint, then to the supervisor and deputy marshal to act, and to act under the pains and penalties of fine and imprisonment. Impeachment enforces the obedience of the judge; fine and imprisonment the obedience of the supervisors and deputy marshals.

Now comes one other mandatory order: in the last section of this

long chapter of legislation, the majestic command of the law is addressed both to Congress and the Treasury. It declares that there "shall be paid" out of the Treasury \$5 per day to these officers as compensation for their services. Here too the law is equally imperious and mandatory; it addresses itself to the conscience of every member of this House, with only this difference: we cannot be impeached for disobedience; we cannot be fined or locked up in the penitentiary for voting "no," and refusing the appropriation; we cannot be fined or imprisoned if we refuse to do our duty. And so, shielded by the immunity of his privilege as a Representative, my colleague sets the example to all officers and all people of deliberately and with clear-sighted purpose violating the law of the land.

Thus he seeks to nullify the law. Thus he hopes to thwart the nation's "collected will."

DANGER OF VITIATING THE ELECTIONS.

Does my colleague reflect that in doing this he runs the risk of vitiating every national election? Suppose his lead be followed, and the demand of citizens for supervisors and marshals is made and refused because an appropriation has not been voted. Does he not see the possibility of vitiating every election, where fraud and violence are not suppressed and the law has not been complied with? Yet he would risk the validity of all the congressional elections of the United States. Rather than abandon his party's purpose he would make Congress the chief of the law-breakers of the land.

Mr. Chairman, when I took my seat as a member of this House, I took it with all the responsibilities which the place brought upon me; and among others was my duty to keep the obligations of the law. Where the law speaks in mandatory terms to everybody else and then to me, I should deem it cowardly and dishonorable if I should skulk behind my legislative privilege for the purpose of disobeying and breaking the supreme law of the land. [Applause.]

The issue now made is somewhat different from that of the last session, but, in my judgment, it is not less significant and dangerous. I would gladly waive any party advantage which this controversy might give, for the sake of that calm and settled peace which would reign in this Hall if we all obeyed the law. But if the leaders on the other side are still determined to rush upon their fate by forcing

upon the country this last issue—that because the democratic party happen not to like a law they will not obey it—because they happen not to approve of the spirit and character of a law they will not let it be executed—I say to gentlemen on the other side if you are determined to make such an issue, it is high time that the American people should know it.

THE SACRED CHARACTER OF THE LAW.

Here is the volume of our laws. More sacred than the twelve tables of Rome, this rock of the law rises in monumental grandeur alike above the people and the President, above the courts, above Congress, commanding everywhere reverence and obedience to its supreme authority. Yet the dominant party in this House virtually declares that “any part of this volume that we do not like and cannot repeal we will disobey. We have tried to repeal these election laws; we have failed because we had not the constitutional power to destroy them; the Constitution says they shall stand in their authority and power; but we, the democratic party, in defiance of the Constitution, declare that if we cannot destroy them—ontright by repeal, they shall be left to crumble into ruin by wanton and lawless neglect.”

Mr. Chairman, I ask gentlemen on the other side whether they wish to maintain this attitude in regard to the legislation of this country? Are they willing to start on a hunt through the statutes, and determine for themselves what they will obey and what they will disobey? That is the meaning of my colleague’s speech. If it means anything it means that. He is not an old Brandenburg elector, but an elector in this novel and modern sense, that he will elect what laws he will obey and what he will disobey, and in so far as his power can go, he will infect with his spirit of disobedience all the good people of this country who trust him.

THE DANGEROUS EXAMPLE OF LAW-BREAKING BY CONGRESS.

I ask gentlemen whether this is a time when it is safe to disregard and weaken the authority of law. In all quarters, the civil society of this country is becoming honeycombed through and through by disintegrating forces—in some States by the violation of contracts and the repudiation of debts; in others by open resistance and defiance; in still others by the reckless overturning of constitutions and

letting "the red fool-fury of the Seine" run riot among our people and build its blazing altars to the strange gods of ruin and misrule. All these things are shaking the good order of society and threatening the foundations of our Government and our peace. In a time like this, more than ever before, this country needs a body of law-givers clothed and in their right minds, who will lay their hands upon the altar of the law as its defenders, not its destroyers. And yet now, in the name of party, for some supposed party advantage, my colleague from Ohio announces, and no one on his side has said him nay, that they not only have not in the past obeyed but in the future they will not obey this law of the land which the Supreme Court has just crowned with the authority of its sanction. If my colleague chooses to meet that issue, if he chooses to go to the country with that plea, I shall regret it deeply for my country's sake; but if I looked only to my party's interest, it would give me joy to engage in such a struggle.

The contest of last autumn made the people understand the tendencies of gentlemen on the other side. Now, this cool, calm, deliberate, assassination of the law will not be tolerated. We have had a winter to freeze out our passion, we have had a summer to thaw out our indifference, we have had the changing circles of the year to bring us around to order and calmness, and yet all the stars in their courses seem to have shed their influence on my colleague to fire him with a more desperate madness and drive his party on to a still sadder fate. [Applause on the republican side.]

I trust and believe that we may yet find some responses from the other side of the House that will prevent this course of procedure. If we do, I will gladly give away any party advantage for the sake of strengthening the foundations of law and good order. And I therefore appeal to gentlemen on the other side to prevent a disaster which their party leaders are preparing, not for themselves alone, but for our common country. I hope before this day is over we may see such a vote in this Chamber upon this bill as will put an end to this miserable business, and cast out of these halls the dregs of that unfortunate and crazy extra session. [Applause on the republican side.]







LIBRARY OF CONGRESS



0 013 789 626 6

